



REC'D TH
REGULATORY AUTH.

'02 MAY 31 PM 1 28

OFFICE OF THE
EXECUTIVE SECRETARY

Via Overnight Delivery

May 30, 2002

Mr. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243

RE: Petition of Tennessee UNE-P Coalition to Open a Contested Case
Proceeding to Declare Switching an Unrestricted Unbundled Network
Element, Docket No. 02-00207

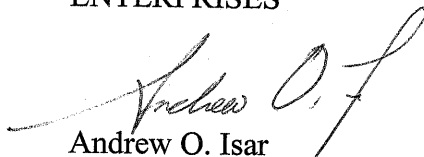
Dear Mr. Waddell:

Enclosed are an original and thirteen copies of the *Response of the Association of Communications Enterprises to BellSouth Telecommunications, Inc.'s First Set of Discovery Requests to ASCENT*, in the above-referenced matter.

Questions may be addressed to the undersigned.

Sincerely,

ASSOCIATION OF COMMUNICATIONS
ENTERPRISES



Andrew O. Isar
Director – State Affairs

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *Petition of Tennessee UNE-P Coalition to Open a Contested Case Proceeding to Declare an Unrestricted Unbundled Network Element*

Docket No. 02-00207

**OBJECTIONS OF THE ASSOCIATION OF COMMUNICATIONS ENTERPRISES TO
BELLSOUTH TELECOMMUNICATIONS, INC.'S FIRST SET OF DISCOVERY
REQUESTS**

Pursuant to the Tennessee Regulatory Authority's May 13, 2002 *First Report and Recommendation* in the above-captioned proceeding,, the Association of Communications Enterprises ("ASCENT"), on behalf of its members, hereby responds to BellSouth Telecommunications, Inc.'s ("BellSouth") May 24, 2002 first set of discovery requests to ASCENT. ASCENT notes that BellSouth's discovery requests, though timely filed with the Commission on May 24, 2002, pursuant to the Authority's *First Report and Recommendation*, were sent via regular mail to ASCENT and were thus not received by the Association until Wednesday, May 29, 2002, contrary to the express dictates of the Authority.¹ However, in an effort to comply with the Authority's ordered schedule, ASCENT timely submits the following objections.

GENERAL OBJECTIONS

1. ASCENT objects to the Requests to the extent the Requests seek the disclosure of confidential, proprietary, competitively sensitive and/or trade secret information. ASCENT has made reasonable efforts to maintain the secrecy of this information, to the extent that such information has been made available to ASCENT, and such information derives independent economic value from not being generally known to or readily ascertainable by proper means by others who can obtain economic value from its disclosure or use.

¹ "Discovery Requests shall be filed with the Authority and served by 2:00 p.m., Friday, May 24, 2002." *Notice Of Procedural Schedule*, May 23, 2002, page 2, citing *First Report and Order*, May 13, 2002. [Emphasis supplied.]

2. ASCENT objects to the Requests to the extent the Requests seek documents or information which are neither relevant nor material to the subject matter of this investigation and which are not reasonably calculated to lead to the discovery of admissible evidence.
3. ASCENT objects to the Requests to the extent the Requests seek information outside the scope of these proceedings, and as such, the Requests seek information not reasonably calculated to lead to the discovery of admissible evidence.
4. ASCENT objects to the Requests to the extent the Requests seek an analysis, calculation, or compilation that has not already been performed and which ASCENT objects to performing.
5. ASCENT objects to the Requests to the extent the Requests are vague and ambiguous and provide no basis from which ASCENT can determine what information is sought.

Request No. 1

Please identify all entities that are members of ASCENT and state, for each, whether they are certified to provide telecommunications services in Tennessee.

Objection: ASCENT objects to this discovery request because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, ASCENT objects to this request on the grounds that it seeks documents created by persons or entities other than ASCENT, that are not ASCENT employees or agents, that do not act at ASCENT's direction or on ASCENT's behalf, and who may not be parties to this proceeding. This request is improperly directed to an industry association that does not have access to the requested information from its members. ASCENT further states membership in the organization is voluntary, and its members are not bound to provide to ASCENT the requested information. ASCENT consequently also objects to this request on the grounds that it is overly broad, unduly burdensome, oppressive, and seeks information that is available from other sources.

Response: Without waiver of the foregoing objection, ASCENT responds that it is a trade organization that does not track or have custody of the information requested.

Witness: Andrew Isar

Request No. 2

Please identify each switch that you or any of your members own or operate to provide telecommunications service in the State of Tennessee, including, but not limited to, switches outside Tennessee. In answering this request, please describe with particularity fo reach such switch:

- (a) the member entity that owns the switch;
- (b) the specific location of the switch;
- (c) the type of switch that has been deployed (e.g., circuit, wireless, packet, etc.);
- (d) the functions and capabilities of the switch;
- (e) the geographic area served by the switch;
- (f) the total number of access lines or equivalent lines the switch is capable of serving; and
- (g) the total number of access lines or equivalent lines the switch is currently serving.

Objection: ASCENT objects to this discovery request because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, ASCENT objects to this request on the grounds that it seeks documents created by persons or entities other than ASCENT, that are not ASCENT employees or agents, that do not act at ASCENT's direction or on ASCENT's behalf, and who may not be parties to this proceeding. This request is improperly directed to an industry association that does not have access to the requested information from its members. ASCENT further states membership in the organization is voluntary, and its members are not bound to provide to ASCENT the requested information. ASCENT consequently also objects to this request on the grounds that it is overly broad, unduly burdensome, oppressive, and seeks information that is available from other sources.

Response: Without waiver of the foregoing objection, ASCENT responds that it is a trade organization that does not track or have custody of the information requested.

Witness: Andrew Isar

Request No. 2 [sic.]

For each switch identified in the foregoing discovery request, please provide a detailed breakdown of the costs incurred in deploying that switch as well as a complete description of those costs.

Objection: ASCENT objects to this discovery request because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, ASCENT objects to this request on the grounds that it seeks documents created by persons or entities other than ASCENT, that are not ASCENT employees or agents, that do not act at ASCENT's direction or on ASCENT's behalf, and who may not be parties to this proceeding. This request is improperly directed to an industry association that does not have access to the requested information from its members. ASCENT further states membership in the organization is voluntary, and its members are not bound to provide to ASCENT the requested information. ASCENT consequently also objects to this request on the grounds that it is overly broad, unduly burdensome, oppressive, and seeks information that is available from other sources.

Response: Without waiver of the foregoing objection, ASCENT responds that it is a trade organization that does not track or have custody of the information requested.

Witness: Andrew Isar

Request No. 3

Please state the total number of switching points of interface you or your members have deployed in the State of Tennessee for the collection of traffic and identify the location of each such switching point of interface.

Objection: ASCENT objects to this discovery request because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, ASCENT objects to this request on the grounds that it seeks documents created by persons or entities other than ASCENT, that are not ASCENT employees or agents, that do not act at ASCENT's direction or on ASCENT's behalf, and who may not be parties to this proceeding. This request is improperly directed to an industry association that does not have access to the requested information from its members. ASCENT further states membership in the organization is voluntary, and its members are not bound to provide to ASCENT the requested information. ASCENT consequently also objects to this request on the grounds that it is overly broad, unduly burdensome, oppressive, and seeks information that is available from other sources.

Response: Without waiver of the foregoing objection, ASCENT responds that it is a trade organization that does not track or have custody of the information requested.

Witness: Andrew Isar

Request No. 4

Please state the total number of residential access lines or equivalent lines for which you currently provide local exchange service in Tennessee. In answering this discovery request, please state for each member:

(a) the number of residential access lines or equivalent lines that your member currently service in Tennessee that are located: (i) in the "density zone 1" central offices in the Nashville Metropolitan Statistical Area ("MSA"); and (ii) in the Nashville MSA; and (iii) outside the Nashville MSA;

(b) the number of residential access lines or equivalent lines that your member currently service in Tennessee using: (i) UNE-P purchased from BellSouth; (ii) resold telecommunications services from BellSouth; (iii) its own facilities; and (iv) its own facilities in conjunction with facilities purchased from BellSouth or a carrier other than BellSouth; and

(c) the number of residential access lines or equivalent lines that your member currently service in the "density zone 1" central offices in the Nashville MSA using: (i) UNE-P purchased from BellSouth; (ii) resold telecommunications service from BellSouth; (iii) its own facilities; and (iv) its own facilities in conjunction with facilities purchased form BellSouth or a carrier other than BellSouth.

Objection: ASCENT objects to this discovery request because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, ASCENT objects to this request on the grounds that it seeks documents created by persons or entities other than ASCENT, that are not ASCENT employees or agents, that do not act at ASCENT's direction or on ASCENT's behalf, and who may not be parties to this proceeding. This request is improperly directed to an industry association that does not have access to the requested information from its members. ASCENT further states membership in the organization is voluntary, and its members are not bound to provide to ASCENT the requested information. ASCENT consequently also objects to this request on the grounds that it is overly broad, unduly burdensome, oppressive, and seeks information that is available from other sources.

Response: Without waiver of the foregoing objection, ASCENT responds that it is a trade organization that does not track or have custody of the information requested.

Witness: Andrew Isar

Request No. 5

Please state the total number of business access lines or equivalent lines for which your members currently provide local exchange service in Tennessee. In answering this discovery request, please state for each member:

(a) the number of business lines or equivalent lines that your member currently serves in Tennessee that are located: (i) in the "density zone 1" central offices in the Nashville Metropolitan Statistical Area ("MSA"); and (ii) in the Nashville MSA; and (iii) outside the Nashville MSA;

(b) the number of business access lines or equivalent lines that your member currently service in Tennessee using: (i) UNE-P purchased from BellSouth; (ii) resold telecommunications services from BellSouth; (iii) its own facilities; and (iv) its own facilities in conjunction with facilities purchased from BellSouth or a carrier other than BellSouth; and

(c) the number of business access lines or equivalent lines that your member currently service in the "density zone 1" central offices in the Nashville MSA using: (i) UNE-P purchased from BellSouth; (ii) resold telecommunications service from BellSouth; (iii) its own facilities; and (iv) its own facilities in conjunction with facilities purchased form BellSouth or a carrier other than BellSouth.

Objection: ASCENT objects to this discovery request because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, ASCENT objects to this request on the grounds that it seeks documents created by persons or entities other than ASCENT, that are not ASCENT employees or agents, that do not act at ASCENT's direction or on ASCENT's behalf, and who may not be parties to this proceeding. This request is improperly directed to an industry association that does not have access to the requested

information from its members. ASCENT further states membership in the organization is voluntary, and its members are not bound to provide to ASCENT the requested information. ASCENT consequently also objects to this request on the grounds that it is overly broad, unduly burdensome, oppressive, and seeks information that is available from other sources.

Response: Without waiver of the foregoing objection, ASCENT responds that it is a trade organization that does not track or have custody of the information requested.

Witness: Andrew Isar

Request No. 6

Do any of your members currently provide local exchange service to end-user customer in Tennessee with four or more voice grade (DSO) equivalents or lines? If the answer this discovery request is in the affirmative, please state for each member:

(a) the total number of end-user customers with four or more voice grade (DSO) equivalent or lines currently served by your member;

(b) the total number of end-user customers with four or more voice grade (DSO) equivalents or lines currently service by your member that are located: (i) in the "density zone 1" central offices in the Nashville Metropolitan Statistical Area ("MSA"); and (ii) in the Nashville MSA; and (iii) outside the Nashville MSA; and

(c) the total number of end-users customer with four or more voice grade (DSO) equivalents or lines currently served by your member using: (i) facilities purchased exclusively from BellSouth; (ii) resold telecommunications service from BellSouth; (iii) its own facilities; and (iv) its own facilities in conjunction with facilities purchased form BellSouth or a carrier other than BellSouth.

Objection: ASCENT objects to this discovery request because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, ASCENT objects to this request on the grounds that it seeks documents created by persons or entities other than ASCENT, that are not ASCENT employees or agents, that do not act at ASCENT's direction or on ASCENT's behalf, and who may not be parties to this proceeding. This request is improperly directed to an industry association that does not have access to the requested

information from its members. ASCENT further states membership in the organization is voluntary, and its members are not bound to provide to ASCENT the requested information. ASCENT consequently also objects to this request on the grounds that it is overly broad, unduly burdensome, oppressive, and seeks information that is available from other sources.

Response: Without waiver of the foregoing objection, ASCENT responds that it is a trade organization that does not track or have custody of the information requested.

Witness: Andrew Isar

Request No. 7

Is it your contention that the Unbundled Local Switching Exemption has prevented any of your members from competing or otherwise made it more difficult for your members to compete in the local exchange market in Tennessee? If the answer is in the affirmative, please identify the specific members for which the answer is in the affirmative and state all facts and identify all documents that support this contention.

Objection: ASCENT objects to this discovery request because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, ASCENT objects to this request on the grounds that it seeks documents created by persons or entities other than ASCENT, that are not ASCENT employees or agents, that do not act at ASCENT's direction or on ASCENT's behalf, and who may not be parties to this proceeding. This request is improperly directed to an industry association that does not have access to the requested information from its members. ASCENT further states membership in the organization is voluntary, and its members are not bound to provide to ASCENT the requested information. ASCENT consequently also objects to this request on the grounds that it is overly broad, unduly burdensome, oppressive, and seeks information that is available from other sources.

Response: Without waiver of the foregoing objection, ASCENT responds that it is a trade organization that does not track or have custody of the information requested.

Witness: Andrew Isar

Request No. 8

Have any of your members purchased switching from a telecommunications carrier other than BellSouth in providing local exchange service to end-user customers?

Objection: ASCENT objects to this discovery request because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, ASCENT

objects to this request on the grounds that it seeks documents created by persons or entities other than ASCENT, that are not ASCENT employees or agents, that do not act at ASCENT's direction or on ASCENT's behalf, and who may not be parties to this proceeding. This request is improperly directed to an industry association that does not have access to the requested information from its members. ASCENT further states membership in the organization is voluntary, and its members are not bound to provide to ASCENT the requested information. ASCENT consequently also objects to this request on the grounds that it is overly broad, unduly burdensome, oppressive, and seeks information that is available from other sources.

Response: Without waiver of the foregoing objection, ASCENT responds that it is a trade organization that does not track or have custody of the information requested.

Witness: Andrew Isar

Request No. 9

If the answer to Discovery Request No. 8 is in the affirmative, identify all such members, state all facts, and identify all documents referring or relating to such purchase.

Objection: ASCENT objects to this discovery request because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, ASCENT objects to this request on the grounds that it seeks documents created by persons or entities other than ASCENT, that are not ASCENT employees or agents, that do not act at ASCENT's direction or on ASCENT's behalf, and who may not be parties to this proceeding. This request is improperly directed to an industry association that does not have access to the requested information from its members. ASCENT further states membership in the organization is voluntary, and its members are not bound to provide to ASCENT the requested information. ASCENT consequently also objects to this request on the grounds that it is overly broad, unduly burdensome, oppressive, and seeks information that is available from other sources.

Response: Without waiver of the foregoing objection, ASCENT responds that it is a trade organization that does not track or have custody of the information requested.

Witness: Andrew Isar

Request No. 10

If the answer to Discovery Request No. 8 is in the negative, please:

(a) state whether any of your members has ever investigated or otherwise considered purchasing switching from a carrier other than BellSouth, and, if so, identify all such members and state the results of such investigation or consideration;

(b) state whether any of your members has ever requested switching from a carrier other than BellSouth, and, if so, the reasons for such request and the reasons why it decided not to purchase switching from such carrier; and

(c) identify all documents referring or relating to such investigation, consideration, or request.

Objection: ASCENT objects to this discovery request because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, ASCENT objects to this request on the grounds that it seeks documents created by persons or entities other than ASCENT, that are not ASCENT employees or agents, that do not act at ASCENT's direction or on ASCENT's behalf, and who may not be parties to this proceeding. This request is improperly directed to an industry association that does not have access to the requested information from its members. ASCENT further states membership in the organization is voluntary, and its members are not bound to provide to ASCENT the requested information. ASCENT consequently also objects to this request on the grounds that it is overly broad, unduly burdensome, oppressive, and seeks information that is available from other sources.

Response: Without waiver of the foregoing objection, ASCENT responds that it is a trade organization that does not track or have custody of the information requested.

Witness: Andrew Isar

Request No. 11

Please identify carriers other than BellSouth, of which you, or any of your members are aware that offer switching in Tennessee.

Objection: ASCENT objects to this discovery request because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, ASCENT objects to this request on the grounds that it seeks documents created by persons or entities other than ASCENT, that are not ASCENT employees or agents, that do not act at ASCENT's direction or on ASCENT's behalf, and who may not be parties to this proceeding. This request is improperly directed to an industry association that does not have access to the requested information from its members. ASCENT further states membership in the organization is voluntary, and its members are not bound to provide to ASCENT the requested information. ASCENT consequently also objects to this request on the grounds that it is overly broad, unduly burdensome, oppressive, and seeks information that is available from other sources.

Response: Without waiver of the foregoing objection, ASCENT responds that it is a trade organization that does not track or have custody of the information requested.

Witness: Andrew Isar

Request No. 12

Is it your contention that any of your members' ability to provide local exchange service to customers in Tennessee via such member's own switch has been impeded by a lack of collocation space in BellSouth central offices? If the answer is in the affirmative, please identify all such members specifically and state all facts and identify all documents that support this contention.

Objection: ASCENT objects to this discovery request because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, ASCENT objects to this request on the grounds that it seeks documents created by persons or entities other than ASCENT, that are not ASCENT employees or agents, that do not act at ASCENT's direction or on ASCENT's behalf, and who may not be parties to this proceeding. This request is improperly directed to an industry association that does not have access to the requested information from its members. ASCENT further states membership in the organization is voluntary, and its members are not bound to provide to ASCENT the requested information. ASCENT consequently also objects to this request on the grounds that it is overly broad, unduly burdensome, oppressive, and seeks information that is available from other sources.

Response: Without waiver of the foregoing objection, ASCENT responds that it is a trade organization that does not track or have custody of the information requested.

Witness: Andrew Isar

Request No. 13

Please produce any and all documents referred to or identified in response to BellSouth's Discovery Request.

Objection: ASCENT objects to this discovery request because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Additionally, ASCENT objects to this request on the grounds that it seeks documents created by persons or entities other than ASCENT, that are not ASCENT employees or agents, that do not act at ASCENT's direction or on ASCENT's behalf, and who may not be parties to this proceeding. This request is improperly directed to an industry association that does not have access to the requested information from its members. ASCENT further states membership in the organization is voluntary, and its members are not bound to provide to ASCENT the requested information. ASCENT consequently also objects to this request on the grounds that it is overly broad, unduly burdensome, oppressive, and seeks information that is available from other sources.

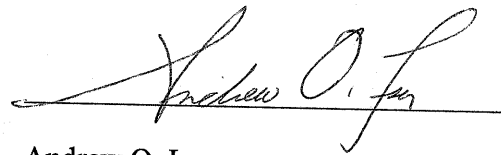
Response: Without waiver of the foregoing objection, ASCENT responds that it is a trade organization that does not track or have custody of the information requested. Further, ASCENT responds that no documents have been identified in response to BellSouth's Discovery Requests.

Witness: Andrew Isar

Respectfully submitted this 30th day of May, 2002

ASSOCIATION OF COMMUNICATIONS
ENTERPRISES

By:

A handwritten signature in black ink, appearing to read "Andrew O. Isar", is written over a horizontal line.

Andrew O. Isar
Director – State Affairs
7901 Skansie Avenue, Suite 240
Gig Harbor, WA 98335
Tel. 253.851.6700
Fax 253.851.6474

CERTIFICATE OF SERVICE

I hereby certify that on this day, May 30, 2002, I served the foregoing *Response of the Association of Communications Enterprises to BellSouth Telecommunications, Inc.'s First Set of Discovery Requests to ASCENT*, postage prepaid, on the following known parties.

Via Overnight Delivery:

Joelle Phillips, Esq.
BellSouth Telecommunications, Inc.
333 Commerce Street
Suite 2101
Nashville, TN 37201-330
Facsimile: 615.214.7406

Via First Class Mail:

Henry Walker, Esq.
Boult Cummings
P. O. Box 198062
Nashville, TN 37219-8062

Charles B. Welch, Esq.
Farris, Mathews, et al.
618 Church Street, #300
Nashville, TN 32719



Sue Willett